

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Martha Jane Toy, individually, and as Executrix and Personal Representative of the Estate of Russell B. Toy, deceased,)
)
Plaintiffs,)
)
v.) C.A. No. 05-cv-1814
Plumbers & Pipefitters Local Union No. 74 Pension Plan,)
Trustees of Plumbers & Pipefitters Local Union No. 74)
Pension Plan, Health and Welfare Plan, Local 74, Welfare)
Benefit Plan, Life Insurance Plan, Local 74, Welfare Benefit)
Plan, Life Insurance Plan, Local 74, Insurance Plan,)
Administrators of Pension and Welfare Plans, Trustees of)
Plumbers & Pipefitters Local Union No. 74 Welfare Plan, Plan)
Administrator of Pension & Welfare Plans, Insurance Plans,)
and Health and Welfare Benefit Plan,)
)
Defendants.)

DEFENDANTS' MOTION TO: [1] DISMISS ACTION AGAINST NON-EXISTENT DEFENDANTS, [2] DISMISS ACTION FOR IMPROPER VENUE, AND [3] DISMISS ACTION AGAINST INDIVIDUAL TRUSTEES

Defendants Plumbers & Pipefitters Local Union No. 74 Pension Plan, *et al.*, by and through their undersigned attorneys and pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(3), hereby move the Court to dismiss the Complaint against the non-existent defendant plans for lack of personal jurisdiction, against the Plumbers & Pipefitters Local Union No. 74 Pension Plan (“Pension Plan”) and Plumbers & Pipefitters Local Union No. 74 Welfare Plan (“Welfare Plan”) for improper venue, and against the individual Trustees for lack of personal jurisdiction and improper venue. The grounds for this motion are set forth more fully in the accompanying brief filed herewith.

WHEREFORE, Defendants respectfully request that the Court enter the attached order dismissing the Complaint against them.

Young, Conaway, Stargatt & Taylor, LLP

s/ Curtis J. Crowther

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Dated: September 9, 2005

Counsel for Defendants